

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
OGILVY RENAULT
1600 - 45 O'Connor Street
OTTAWA, Ontario
Canada, K1P 1A4

RECEIVED

MAR 17 2005

PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing 14 March 2005 (14-03-2005)
(day/month/year)

Applicant's or agent's file reference
15814-11PCT

FOR FURTHER ACTION See paragraphs 1 and 4 below

International application No
PCT/CA2004/001918

International filing date 03 November 2004 (03-11-2004)
(day/month/year)

Applicant ALTACHEM PHARMA LTD. ET AL

ARTICLE 19 AMENDMENT DUE: MAY 14/05

- 1 ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and is transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for the international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the PCT Applicant's Guide, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/CA
Commissioner of Patents
Canadian Patent Office
Box PCT, Ottawa/Gatineau K1A 0C9
Facsimile No.

Authorized officer
Lucille Leonard (819) 953-1737

NOTES TO FROM PCT/ISA/220

These Notes are intended to give instructions concerning the filing of amendments under Article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article," "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2).

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)) :

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter :

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

If a demand for international preliminary examination is made, the written opinion of the International Searching Authority will, except in certain cases where the International Preliminary Examining Authority did not act as International Searching Authority and where it has notified the International Bureau under Rule 66.1bis(b), be considered to be a written opinion of the International Preliminary Examining Authority. If a demand is made, the applicant may submit to the International Preliminary Examining Authority a reply to the written opinion together, where appropriate, with amendments before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later (Rule 43bis.1(c)).

Consequence with regard to translation of the international application for entry into the national phase

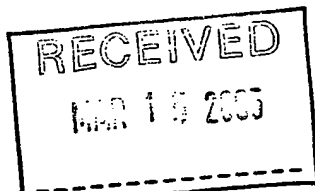
The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT (PCT Article 18 and Rules 43 and 44)



Applicant's or agent's file reference 15814-11PCT	FOR FURTHER ACTION <div style="display: flex; justify-content: space-between; font-size: small;"> see Form PCT/ISA/220 as well as, where applicable, item 5 below. </div>	
International application No. PCT/CA2004/001918	International filing date (day/month/year) 03 November 2004 (03-11-2004)	(Earliest) Priority date (day/month/year) 03 November 2003 (03-11-2003)
Applicant ALTACHEM PHARMA LTD. ET AL		
<p>This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.</p> <p>This international search report consists of a total of <u>9</u> sheets.</p> <p><input checked="" type="checkbox"/> It is also accompanied by a copy of each prior art document cited in this report.</p> <p>1. Basis of the report</p> <p style="margin-left: 20px;">a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p style="margin-left: 80px;"><input type="checkbox"/> The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.</p> <p>2. <input checked="" type="checkbox"/> Certain claims were found unsearchable (see Box No. II).</p> <p>3. <input type="checkbox"/> Unity of invention is lacking (see Box No. III).</p> <p>4. With regard to the title,</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> the text is approved as submitted by the applicant.</p> <p style="margin-left: 20px;"><input type="checkbox"/> the text has been established by this Authority to read as follows :</p> <p>5. With regard to the abstract,</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> the text is approved as submitted by the applicant.</p> <p style="margin-left: 20px;"><input type="checkbox"/> the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.</p> <p>6. With regard to the drawings,</p> <p style="margin-left: 20px;">a. the figure of the drawings to be published with the abstract is Figure No. <u> </u></p> <p style="margin-left: 80px;"><input type="checkbox"/> as suggested by the applicant.</p> <p style="margin-left: 80px;"><input type="checkbox"/> as selected by this authority, because the applicant failed to suggest a figure.</p> <p style="margin-left: 80px;"><input type="checkbox"/> as selected by this Authority, because this figure better characterizes the invention.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> none of the figures is to be published with the abstract.</p>		

INTERNATIONAL SEARCH REPORT

International application No.
PCT/CA2004/001918

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of the first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons :

7. ☒ Claim Nos. : 4 to 9, 15 and 16
because they relate to subject matter not required to be searched by this Authority, namely :
- Although claims 4 to 9, 15 and 16 are methods of treatment of the human/animal body which this Authority is not obliged to search under Rule 39.1(iv) of the PCT, the search has been carried out based on the alleged effects of the compounds defined in claim 1.
8. ☐ Claim Nos. :
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically :
9. ☐ Claims Nos. :
because they are dependant claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows :

10. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
11. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
12. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claim Nos. :
13. ☐ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claim Nos. :

Remark on Protest

☐
☐

The additional search fees were accompanied by the applicant's protest.
No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/CA2004/001918

A. CLASSIFICATION OF SUBJECT MATTER

IPC⁷: C07K-7/06 A61K-31/436 C07K-1/00 C07K-5/04 A61K-38/04 A61L-31/08 A61L-31/16 A61P-37/00 C07D-498/14

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC⁷: C07K A61K A61L A61P C07D

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic database(s) consulted during the international search (name of database(s) and, where practicable, search terms used)
Delphion, Pubmed, Caplus, Registry (Structure search)

Keywords: rapamycin, derivative, conjugate, amino acid, peptide, carbamate, cell cycle.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No(s).
X	US 5,411,967 A (AMERICAN HOME PRODUCTS CORPORATION, Madison, N.J.), 2 May, 1995. Whole Document.	1 to 6 and 14 to 18
A	EP 0509795 A2 (AMERICAN HOME PRODUCTS CORPORATION, New York, N.Y.) 21 October, 1992. Whole Document.	1 to 3 and 14 to 18
A	US 5,385,910 A (AMERICAN HOME PRODUCTS CORPORATION, Madison, N.J.), 31 January, 1995. Whole Document.	1 to 3 and 14 to 18

[X] Further documents are listed in the continuation of Box C.

[X] See patent family annex.

* Special categories of cited documents :
 "A" document defining the general state of the art which is not considered to be of particular relevance
 "E" earlier application or patent but published on or after the international filing date
 "L" document which may throw doubt on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
 "O" document referring to an oral disclosure, use, exhibition or other means
 "P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
 "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
 "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
 "&" document member of the same patent family

Date of the actual completion of the international search
07 February 2005 (07-02-2005)

Date of mailing of the international search report
14 March 2005 (14-03-2005)

Name and mailing address of the ISA/CA
Canadian Intellectual Property Office
Place du Portage I, C114 - 1st Floor, Box PCT
50 Victoria Street
Gatineau, Quebec K1A 0C9

Authorized officer
Nathalie Chartrand (819) 994-2341

Facsimile No: 001(819)953-2476

INTERNATIONAL SEARCH REPORT

International application No.
PCT/CA2004/001918

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No(s).
A	WO 96/41807 A1 (SANDOZ-ERFINDUNGEN VERWALTUNGSGESELLSCHAFT MBH [AT/AT]), 27 December, 1996. Whole Document.	1 to 9 and 14 to 18
Y	WO 03/057218 A1 (NOVARTIS AG [CH/CH]), 17 July, 2003. Whole Document.	7 to 13
Y	US 6,585,764 B2 (CORDIS CORPORATION, Miami Lakes, FL (US)), 1 July, 2003. Whole Document.	10 to 13

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.
PCT/CA2004/001918

Patent Document Cited in Search Report	Publication Date	Patent Family Member(s)	Publication Date
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INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.
PCT/CA2004/001918

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INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.
PCT/CA2004/001918

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The structure of rapamycin seems to be erroneous in the application. The rapamycin ring system of the application comprises a superfluous carbon (located between the conjugated double bonds and a carbonyl group) compared to the rapamycin ring system found in the art. Since the crux of the invention resides in the substituents located at the 42 position of rapamycin and not in the ring system, the ring system of rapamycin commonly disclosed in the art was used as the basis for the search.